

# HOUSE . . . . . No. 1578

By Mr. Coppola of Foxborough, petition of Michael J. Coppola and others for legislation to revise the law providing for low and moderate income housing. Housing.

## The Commonwealth of Massachusetts

### PETITION OF:

Michael J. Coppola	Elizabeth A. Poirier
Susan W. Pope	James B. Eldridge
Scott P. Brown	James R. Miceli
Mary S. Rogeness	Thomas J. O'Brien

In the Year Two Thousand and Five.

### AN ACT REVISING CHAPTER 40B.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 Chapter 40B of the General Laws is hereby amended by
- 2 striking out section 20 and inserting in place thereof the following
- 3 section:
- 4 § 20. Definitions
- 5 The following words, wherever used in this section and in sec-
- 6 tions twenty-one to twenty-three, inclusive, shall, unless a dif-
- 7 ferent meaning clearly appears from the context, have the
- 8 following meanings:—
- 9 “Low or moderate income housing”, any housing subsidized by
- 10 the federal or state government under any program to provide
- 11 direct financial assistance for the construction of low or moderate
- 12 income housing as defined in the applicable federal or state
- 13 statute, whether built or operated by any public agency or any
- 14 nonprofit or limited dividend organization.

15 “Uneconomic”, any condition brought about by any single  
16 factor or combination of factors to the extent that it makes it  
17 impossible for a public agency or nonprofit organization to pro-  
18 ceed in building or operating low or moderate income housing  
19 without financial loss, or for a limited dividend organization to  
20 proceed and still realize a reasonable return on its actual costs of  
21 development in building or operating such housing within the lim-  
22 itations set by the subsidizing agency of government on the size or  
23 character of the development or on the amount or nature of the  
24 subsidy or on the tenants, rentals and income permissible, and  
25 without substantially changing the rent levels and units sizes pro-  
26 posed by the public, nonprofit or limited dividend organizations.  
27 In calculating an applicant’s reasonable return, an applicant will  
28 be limited to the lesser of its actual costs or the fair market value  
29 of such costs or services.

30 “Consistent with local needs”, requirements and regulations  
31 shall be considered consistent with local needs if they are reason-  
32 able in view of the regional need for low and moderate income  
33 housing considered with the number of low income persons in the  
34 city or town affected and the need to protect the health or safety of  
35 the occupants of the proposed housing or of the residents of the  
36 city or town, to promote better site and building design in relation  
37 to the surroundings, or to preserve open spaces, and if such  
38 requirements and regulations are applied as equally as possible to  
39 both subsidized and unsubsidized housing. Requirements or regu-  
40 lations shall be consistent with local needs when imposed by a  
41 board of zoning appeals after comprehensive hearing in a city or  
42 town where (1) low or moderate income housing exists which is in  
43 excess of ten per cent of the housing units reported in the latest  
44 federal decennial census of the city or town or on sites comprising  
45 one and one half per cent or more of the total land area zoned for  
46 residential, commercial or industrial use or (2) the application  
47 before the board would result in the commencement of construc-  
48 tion of such housing on sites comprising more than three tenths of  
49 one per cent of such land area or ten acres, whichever is larger, in  
50 any one calendar year; provided, however, that land area owned  
51 by the United States, the commonwealth or any political subdivi-  
52 sion thereof, the metropolitan district commission or any public  
53 authority shall be excluded from the total land area referred to

54 above when making such determination of consistency with local  
55 needs. Any requested waivers from local regulations and require-  
56 ments shall be limited to the dimensional criteria under Zoning  
57 By-laws and Regulations for the Subdivision of Land. No appli-  
58 cation for a permit under G.L. c. 40B, §§20-23 shall propose more  
59 than twice the amount of housing units than would be permitted  
60 under existing by-laws and regulations.

61 “Local Board”, any town or city board of survey, board of  
62 health, board of subdivision control appeals, planning board,  
63 building inspector or the officer or board having supervision of  
64 the construction of buildings or the power of enforcing municipal  
65 building laws, or city council or board of selectmen.